

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MMP CAPITAL, INC.,

Plaintiff,

-against-

**MEMORANDUM AND ORDER**

PUNYAKAM, PLLC D/B/A AVISTAMED  
FAMILY MEDICINE and PUNYA RAMAN  
GAMMAGE,

Case No. 2:20-cv-1755

Defendants.

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**BLOCK, Senior District Judge:**

On April 5, 2022, Magistrate Judge James M. Wicks issued a Report and Recommendation (“R&R”) recommending that the pending motion for default judgment be granted in part and denied in part. *See* ECF No. 21 at 1. The R&R also recommended that plaintiff MMP Capital, Inc. (“MMP”) be awarded damages comprised of: (i) \$92,066.25, representing the balance owed on the parties’ Equipment Finance Agreement with the applicable 3% reduction, (ii) attorneys’ fees and costs “at a reasonable rate to be determined upon supplemental submission” and (iii) \$18,795.60 in interest, as well as “additional *per diem* interest in the amount of \$45.40 from May 28, 2021 through the date of judgment, to be calculated by the Clerk of Court.” *Id.* at 15-16.

The R&R stated that failure to object within fourteen days of the date of the R&R would preclude further review. No objections were filed. If clear notice has been given of the consequences of failing to object and there are no objections, the Court may adopt the R&R without de novo review. *See Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”) (internal citations omitted). The Court will excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). No such error appears in Magistrate Judge Wicks’s thorough and well-written decision.

Accordingly, the Court **ADOPTS** the R&R in full. Default judgment against the defendants is granted in part and denied in part. Specifically, default judgment is granted as to MMP’s breach of contract claim and denied as to MMP’s quasi contract, quantum meruit, and unjust enrichment claims. MMP is to be awarded the following: (i) \$92,066.25 in damages, (ii) reasonable attorneys’ fees and costs to be determined upon MMP’s submission of a declaration/affidavit outlining counsel’s qualification and experience, as well as their contemporaneous time records, and (iii) \$18,795.60 in interest, as well as “additional *per diem* interest in the amount of

\$45.40 from May 28, 2021 through the date of judgment, to be calculated by the Clerk of Court.” ECF No. 21 at 15-16. **SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
May 31, 2022